IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.676 OF 2005

Mr. Ram M. Chavan & Anr ...Applicants.

V/s

State of Maharashtra & Ors. ...Respondents.

Mr. Uday Sankar Samudrala for the applicants.
Mr. A.S. Shitole, APP for the State.

CORAM: V.M.KANADE,J.

DATE: 31st March, 2005

P.C.:

1. Heard the learned Counsel for the applicants.

2. Applicants are challenging the issuance of process by the Metropolitan Magistrate, 29th Court, Dadar in a complaint filed by Respondent No.2 under section 138 of the Negotiable Instruments Act.

3. It is submitted by the learned Counsel appearing on behalf of the applicants that proper averments have not been made in the complaint about the involvement of the applicants in day-to-day affairs of respondent No.3 - Company. It is further submitted that the applicants are non-executive Directors of respondent No.3 - Company and were never in charge of day-to-day affairs of respondent No.3 - Company.

4. The contentions raised by the applicants cannot be accepted. In the complaint, there is a specific averment regarding transaction between the complainant and the accused pursuant to which three cheques were issued by the accused. It is specifically stated that accused No.1 had signed the cheques as Director of the Company. It is further stated in paragraph 5 that accused are the Directors of accused No.3 - Company and are responsible for day-to-day affairs and the business of the Company. Thus, the contentions of the applicants cannot be accepted. All these issues will have to be decided by the Trial Court after the evidence is adduced by both the parties.

5. Criminal Application is accordingly dismissed. All questions raised in this application are kept open. Trial Court to decide the same after the evidence is adduced by both the parties.

V.M. KANADE, J.